

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 14-77-0345

Parcel No. 241/00847-862-000

Chen Zhang,
Appellant,

vs.

Polk County Board of Review
Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on June 19, 2015. Chen Zhang was self-represented. Assistant Polk County Attorney Chris Gonzalez represented the Board of Review.

Zhang is the owner of a residentially classified property located at 9304 Huntington Circle, Johnston, Iowa. The two-story home has 2862 square feet of above-grade living area, a full unfinished basement, and a three-car attached garage. The site is 0.272 acres.

The property's January 1, 2014, assessment was \$348,700, allocated as \$62,500 in land value and \$286,200 in improvement value. This was a change in value from the previous year making all grounds under Iowa Code section 441.37(1)(a)(1) available for protest. Zhang's protest to the Board of Review claimed the property was inequitably assessed, was assessed for more than authorized by law, and there was an error in the assessment under Iowa Code sections 441.37(1)(a)(1), (2), and (4). Zhang stated the error was that comparable properties have basement finish, whereas his does not, yet have lower assessments. The Board of Review denied the protest. Zhang then appealed to PAAB. He contends the property's correct value is \$310,000.

Findings of Fact

Zhang purchased the property in September 2013 for \$352,500; but he does not recall what the property appraised for at the time of purchase. He essentially believes his property is over-assessed because other properties in his area have lower assessments but possess features that his property does not. Zhang testified the subject property has an unfinished basement, the kitchen is original with no upgrades, and no other updates have been made to the property.

The record includes four properties Zhang submitted to the Board of Review that he considered to be comparable for an equity analysis. They are summarized in the following chart.

	Grade	Gross Living Area (GLA)	Bsmt Fin	Brick Veneer	Year Built	2014 Assessment
Subject	1-10	2862	0	672	1999	\$348,700
9318 Huntington Cr	2+05	2878	0	288	2002	\$328,400
9322 Huntington Cr	2-05	2900	0	176	2002	\$310,600
8127 Hardwicke Dr	2+10	2738	1356	480	1997	\$381,400
8140 Durham Cr	2-10	2962	1100	788	1996	\$313,900

We understand Zhang's concern regarding the assessments when simply comparing the size and age of the properties. However, all of these properties have lower grade factors than the subject property, and all but one has less brick veneer. Additionally, the property at 9322 Huntington Circle has 1895 square feet of main level area compared to the subject property, which has 1465 square feet. According to Amy Rasmussen, Director of Litigation for the Polk County Assessor's Office, who testified on behalf of the Board of Review, these features can affect the costs resulting in differences in the assessments.

The property at 8127 Hardwicke Drive is the only property Zhang submitted that has a higher assessment than the subject property, but it also has nearly 1400 square feet of basement finish.

Zhang testified he had toured other properties before purchasing the subject property, one of those being the property located at 8140 Durham Circle. He stated this property had a finished basement and features such as updated carpet and wood floors,

but its assessment was still less than his home. However, this property is three years older, which would account for a little more depreciation, as compared to his property and has a lower grade factor (2-10 compared to the subject's 1-10), which would likely contribute to much of the difference in assessed value.

Zhang also submitted the property record card for 9318 Huntington Circle, which he explained is just two houses down from his home. (Ex. 1) He asserts this property's basement is finished and it has amenities the subject does not, including a nicer kitchen and a fireplace on the second floor, yet its assessment is roughly \$20,000 lower than his assessment. The property record card for 9318 Huntington Circle does not indicate it has any basement finish. (Ex. 1). This could explain, in part, a difference in the assessments, but does not mean that Zhang's property is entitled to a lower assessment based on that property's potential listing error.

Zhang also noted another property, located next door to his property at 9308 Huntington, has a finished basement and a brick front but was assessed for nearly \$40,000 less than his. This property's grade is 3+10 compared to the subject's grade of 1-10, which would contribute to the difference in the assessments.

None of the properties Zhang submitted sold recently, nor did he provide a market value opinion of the properties to conduct a sales/assessment ratio analysis.

Rasmussen also testified that the subject property is located closer to the cul-de-sac than any of the properties Zhang submitted. She asserts a cul-de-sac location typically has more desirability and thus value, in the market.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also*

Hy-Vee, Inc. v. Employment Appeal Bd., 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions reflecting market value are to be considered in arriving at market value. §441.21(1)(b). Conversely, sales of property in abnormal transactions not reflecting market value shall not be taken into account. *Id.*

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

In an appeal alleging the property is assessed for more than the value authorized by law under section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

Zhang provided multiple properties he considered comparable to his. However, none of the properties sold recently and therefore could not be adjusted to determine an opinion of market value. Moreover, Zhang did not provide an opinion of market value for his property or for any of the comparable properties to develop a sales/assessment ratio. Therefore, this information is insufficient to prove either inequity in the assessment or that the property was over assessed.

Order

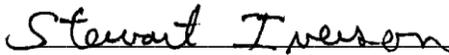
IT IS THEREFORE ORDERED the January 1, 2014, assessment of the subject property as set by the Board of Review is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

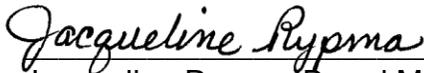
Dated this 14th day of July, 2015.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

Chen Zhang

Chris Gonzalez